HCJ & CVRJ

WRIT PETITION NO.1459 OF 2003

ORAL ORDER:

(per The Hon'ble The Chief Justice Sri Devinder Gupta)

A letter was written by one D.Venkat Rao to the Chairman, A.P. State Human Rights Commission, Hyderabad pointing out that his son Mohan Rao, aged 9 years, is studying in 5th class in S.P.S.M.School, situate near mandal parishad office, Mandasa. On 11-4-2002 as usual he went to the school and while in school he went out to answer calls of nature at about 9.30 am and he unexpectedly touched the high tension electricity wire lying on the ground as a result of which he sustained severe burn injuries and fell on the ground unconscious. On being informed every body rushed to the spot, took him to the government hospital where first aid was rendered to him and the boy was advised to be taken to King George Hospital, Visakhapatnam since injuries sustained were severe in nature in both hands. After treatment in King George hospital, his left hand was completely amputated and the palm of the right hand was also amputated. Thus the boy of 9 years old was rendered handicapped. The letter also pointed out that incident occurred due to negligence on the part of the employees of the electricity department of the area. Had they been properly and regularly verifying and inspecting the electricity wires, it would not have snapped and the incident would not have happened. The sender of the letter pointed out that he had represented this incident to various authorities including the authorities of the electricity department who neither did respond nor compensated the minor boy.

On receipt of the letter the Chairman of the A.P. Human Rights Committee, Hyderabad has forwarded it to this Court and this was taken up as a writ petition. Notice was issued to the respondents.

Affidavit in reply was filed by Sri U.V.Ramana Murthy, Assistant Engineer, A.P. Transco, Mandasa in which it was stated that officials of

the respondents have no knowledge of the accident or of snapping of the wire. On intimation the A.P. Transco personnel rushed to the spot and rectified the defect. There was no indication of voltage fluctuation or tripping in the sub station. He also stated that no claim had been preferred to the respondents for payment of compensation by the injured or his parents. The reply affidavit further stated that the incident was not as a result of any negligence on the part of the officials of the A.P. Transco.

After receipt of the reply affidavit Sri G.Vidya Sagar, Advocate is appointed as amicus curiae and it is also directed that the injured boy be got medically examined in order to find out the extent of injuries sustained by him. Medical Superintendent, District Hospital, Srikakulam has sent a report dated 22-8-2003 stating that master Mohan Rao s/o D.Venkat Rao was examined by the Medical Board with O.P. Ticket No.6027 on 18-8-2003. Three specialists examined him and on examination the Medical Board opined that the injury received by Mohan Rao was grievous in nature and might have necessitated amputation of the grievously injured parts and the percentage of disability is 90 as per the orthopaedic surgeon's opinion as was already mentioned in the Physically Handicapped and Orthopaedically Handicapped Certificate issued on 28-7-2003 and countersigned by the District Coordinator of Hospital Services, Srikakulam. Copies of certificate are appended to the report of the Medical Superintendent which has also been supplied to the learned counsel for the respondents.

Sri V.Suryanarayana, Superintending Engineer, A.P.Transco has filed additional affidavit stating that on enquiry he came to know that in the early hours of 11-4-2002 there was heavy rain along with gale. Due to this HT wire might have been cut at pinpoint and was hanging with the support of tapping jumper and the injured did not notice this fact and unknowingly came into contact with the live wire which was purely an act of God and there is no negligence on the part of the department since it was beyond control of the department.

We have heard learned counsel for the parties. May be that the version of the respondent is that they are not negligent. But being responsible in maintaining the electricity supply lines with HT wires, their degree of care is more than what in other cases would be. In case there was heavy rain fall and gale it was all the more necessary for the respondents to have acted in due care and ensured that in case there be any snapped wire the same is restored forthwith or that proper indication is provided so as to avoid contact with such live wire by any person knowingly or unknowingly. Prima facie, we find that in such a situation persons like respondents responsible for maintaining transmission wires are expected to be more careful. In exercise of writ jurisdiction we are not inclined to assess the amount of compensation or go into other questions and would leave it open for the injured to lay appropriate claim in appropriate court of law. But we direct the respondents to pay a sum of Rs.50,000/- to the minor injured as ex gratia payment which is liable to be adjusted in case claimant is granted compensation by the court on the filing of a claim petition. Such claim petition will be decided on its merits uninfluenced by the observations made by us. The said amount of Rs.50,000/- shall be paid within a period of eight weeks from today and factum of such payment shall be made part of the record of this Court.

We highly appreciate the assistance rendered by Sri G.Vidya Sagar, learned counsel.

Writ petition is accordingly disposed of.

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DEVINDER GUPTA, CJ

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C.V.RAMULU, J

16th September, 2003.

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